IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 16551 of 2006

DATED: 9.8.2006

Between:

The Depot Manager,
APSRTC,
Parvathipuram, Vizianagaram petitioner

And

The Regional Secretary,
APSRTC, National Mazdoor Union,
Vizianagaram and another
Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 16551 of 2006

ORAL ORDER:

The present writ petition is filed seeking a writ of Certiorari to call for the records relating to the award passed by the Industrial Tribunal cum Labour Court, Visakapatnam in I.D. No. 62 of 2002 and to quash the same.

The petitioner herein is management of APSRTC. The first respondent herein is APSRTC National Mazdoor Union, representing the concerned workman Mr.T.Krishna Rao. The concerned workman is Driver in the petitioner corporation. He was issued with a charge sheet dated 23.10.1997 alleging that he was responsible for an accident that took place on 17.9.1997. The petitioner has not submitted his explanation. After issuing a show cause notice dated 17.2.1998, final order dated 24.8.1999 was issued imposing the punishment of deferment of annual increment for a period of one year with cumulative effect besides recovery of an amount of Rs.850/- towards cost of the damages to the vehicle. After passing the final order, the workman through first respondent moved Conciliation Proceedings and the dispute was referred to the Industrial Tribunal for adjudication and the same was registered as I.D. No. 62 of 2002. The Industrial Tribunal on consideration of matter and the evidence available on record passed an award dated 28.6.2004 setting aside

the punishment imposed on the workman. Questioning the said award, the present writ petition is filed.

Heard learned counsel for petitioner, learned Standing Counsel for respondent corporation and perused the award under challenge.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of Certiorari are limited to—firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

In the present case the punishment was imposed on the workman alleging that he is responsible for an accident that took place on 17.9.1997. The Industrial Tribunal cum Labour Court on appreciation of the material available on record held that the management-petitioner herein failed to prove the guilt of the workman. It is observed by the Tribunal that the conductor who is an eye-witness to the incident in his spot statement has not attributed anything against the workman-driver. It is further observed that to prove its case, the management has not examined the conductor of the bus, and basing on the evidence of M.W.1 alone, the workman cannot be found guilty. It is thus held that the management failed to prove the guilt of the workman.

The Industrial Tribunal cum Labour Court on consideration of the matter, based on the evidence passed the award dated 28.6.2004 setting aside the punishment imposed on the workman. Until and

unless the writ petition shows any disproportionality in imposing the penalty or it shocks the conscious of the Court this Court cannot exercise its discretion or interfere with the quantum of penalty. In **DIVISIONAL CONTROLLER, KSRTC (NWKRTC) Vs. A.T.MANE** [1], the Apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and Courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal.

For the foregoing reasons, the petitioner has not made out any case for interference of this Court in exercise of its certiorari jurisdiction under Article 226 of the Constitution of India. The writ petition fails and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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N.V.RAMANA,J

Date: 9-8-2006

TVK

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[1] 2005 (3) SCC 254